

JOURNAL OF THE HOUSE

EIGHTY-EIGHTH SESSION

THIRTY-FIRST DAY

STATE OF SOUTH DAKOTA
House of Representatives, Pierre
Wednesday, February 27, 2013

The House convened at 2:00 p.m., pursuant to adjournment, the Speaker presiding.

The prayer was offered by the Chaplain, Pastor Josh Baumann, followed by the Pledge of Allegiance led by House page Tori Remington.

Roll Call: All members present.

APPROVAL OF THE JOURNAL

MR. SPEAKER:

The Committee on Legislative Procedure respectfully reports that the Chief Clerk of the House has had under consideration the House Journal of the thirtieth day.

All errors, typographical or otherwise, are duly marked in the temporary journal for correction.

And we hereby move the adoption of the report.

Respectfully submitted,
Brian G. Gosch, Chair

Which motion prevailed.

COMMUNICATIONS AND PETITIONS

February 26, 2013

Mr. Speaker and Members of the House of Representatives:

I have the honor to inform you that on February 26, 2013, I approved House Bills 1006, 1023, 1034, 1052, 1086, 1106, 1140, 1157, and 1169, and the same have been deposited in the office of the Secretary of State.

Respectfully submitted,
Dennis Daugaard
Governor

DISSENT AND PROTEST PASSAGE OF HB 1137

Pursuant to Joint Rule 1-10, we, the undersigned Representatives, do hereby respectfully dissent and protest the passage of HB 1137, "An Act to impact education in South Dakota." The body of HB 1137 simply states: "Education in South Dakota is hereby impacted." The bill as it passed the House of Representatives has no substantive effect except that it circumvents Chapter 17 of the Joint Rules relating to the deadline for the introduction of bills and House Rule 4-1 and Joint Rule 11-1 relating to the suspension of rules, which would have allowed the introduction of a bill after the deadline. Consideration and passage of the bill in this form relinquishes the legislative power and authority of the House of Representatives and cedes such power and authority to the Senate. In addition, Article III, Section 21 of the South Dakota Constitution states: "No law shall embrace more than one subject, which shall be expressed in its title." Since the intended effect of HB 1137 is not stated and is unknown, the title does not accurately express the purpose or effect of the bill. We believe that the passage of HB 1137 does not meet the requirements of Article III, Section 21 of the South Dakota Constitution and contradicts the substantive provisions of House Rule 4-1, Joint Rule 11-1, and Chapter 17 of the Joint Rules and is therefore null and void. We respectfully request that this dissent be printed in the House Journal as required by Joint Rule 1-10.

Respectfully submitted,
Stace Nelson
Lance Russell
Don Kopp

Respectfully submitted,
Blaine Campbell
Dan Kaiser

DISSENT AND PROTEST PASSAGE OF HB 1060

Pursuant to Joint Rule 1-10, we, the undersigned Representatives, do hereby respectfully dissent and protest the passage of HB 1060. The Constitution of the State of South Dakota, Article XII, Section 2, states that the general appropriation bill shall embrace nothing but appropriations for ordinary expenses of the executive, legislative, and judicial departments of the state, the current expenses of state institutions, interest on the public debt, and for common

1 schools. All other appropriations are to be made by separate bills and require a two-thirds
2 majority to pass. Several items in HB 1060 do not meet the constitutional criteria specified
3 above for measures to be included in the general appropriations bill. Specifically, HB 1060
4 includes one-time unordinary appropriations for five million dollars on page 2, line 7 of the
5 original printed bill to repay monies related to a statute rejected by the voters in 2012's Referred
6 Law Number 14. The bill also includes one-time unordinary appropriations of approximately
7 six million dollars to implement the provisions of 2013's SB 70. HB 1060 was passed even after
8 this information was provided to the body during official debate. We therefore believe that the
9 passage of HB 1060 is in contravention of the Constitution, is null and void, promotes a practice
10 that undermines the very foundation of our State Constitution, and thus weakens the rule of law.
11 We respectfully request that this dissent be printed in the House Journal as required by Joint
12 Rule 1-10.

13 Respectfully submitted,
14 Stace Nelson
15 Lance Russell
16 Dan Kaiser
17 Julie Bartling
18 Kevin Killer

Respectfully submitted,
Bernie Hunhoff
Spencer Hawley
Betty Olson
Peggy Gibson
Karen Soli

19 REPORTS OF STANDING COMMITTEES

20 MR. SPEAKER:

21 The Committee on State Affairs respectfully reports that it has had under consideration
22 SB 200 and returns the same with the recommendation that said bill be amended as follows:

23 200fa

24 On page 1, line 9, of the printed bill, delete everything after "makes" and insert "~~an~~
25 ~~independent expenditure~~ a payment or promise of payment totaling one hundred".

26 On page 1, line 10, after "more" insert ", including an in-kind contribution,".

27 On page 2, delete line 18, and insert:

28 "~~makes an expenditure~~ that makes a payment or promise of payment of one hundred dollars or
29 more, including an in-kind contribution, for a".

30 On page 4, line 19, after "more" insert ", including an in-kind contribution,".

31 On page 6, between lines 4 and 5, insert "

32 A violation of this section is a Class 1 misdemeanor."

200oa

1

2 On page 7, after line 20 of the printed bill, insert:

3 " Section 6. That chapter 37-30 be amended by adding thereto a NEW SECTION to read as
4 follows:

5 No person may use an automated telephone dialing system to make a telephone solicitation
6 to any phone number in the state if the purpose of the call is to communicate any message about
7 a political candidate or ballot issue unless a live operator first asks for the called person's
8 consent to play the automated recording. The live operator shall inform the called person of the
9 caller's identity, the entity paying for the call, and the caller's phone number and mailing
10 address. A violation of this section is a Class 2 misdemeanor."

11 And that as so amended said bill do pass.

12 Also MR. SPEAKER:

13 The Committee on State Affairs respectfully reports that it has had under consideration
14 SB 232 which was tabled.

15 Also MR. SPEAKER:

16 The Committee on State Affairs respectfully reports that it has had under consideration
17 SJR 1 which was deferred to the 41st Legislative Day.

18 Respectfully submitted,
19 David Lust, Chair

20 Also MR. SPEAKER:

21 The Committee on Commerce and Energy respectfully reports that it has had under
22 consideration SB 66 and 111 and returns the same with the recommendation that said bills do
23 pass.

24 Also MR. SPEAKER:

25 The Committee on Commerce and Energy respectfully reports that it has had under
26 consideration SB 60, 61, and 62 and returns the same with the recommendation that said bills
27 do pass and be placed on the consent calendar.

28 Respectfully submitted,
29 Kristin Conzet, Vice Chair

1 Also MR. SPEAKER:

2 The Committee on Education respectfully reports that it has had under consideration
3 SB 159 and 233 and returns the same with the recommendation that said bills be referred to the
4 Committee on Appropriations.

5 Also MR. SPEAKER:

6 The Committee on Education respectfully reports that it has had under consideration SB 15
7 and returns the same with the recommendation that said bill be amended as follows:

8 15ctd

9 On page 1, line 2, of the Senate engrossed bill, after "fund" insert ", and to revise certain
10 provisions regarding state aid to special education".

11 And that as so amended said bill be referred to the Committee on Appropriations.

12 Also MR. SPEAKER:

13 The Committee on Education respectfully reports that it has had under consideration
14 SB 138 and returns the same with the recommendation that said bill be amended as follows:

15 138ca

16 On the Senate engrossed bill, delete everything after the enacting clause and insert:

17 " Section 1. Education is hereby enhanced."

18 138cta

19 On page 1, line 1, of the Senate engrossed bill, delete everything after "An Act to" and
20 insert "enhance education".

21 On page 1, delete line 2.

22 And that as so amended said bill be referred to the Committee on Appropriations.

23 Respectfully submitted,
24 Jacqueline Sly, Chair

25 Also MR. SPEAKER:

26 The Committee on Judiciary respectfully reports that it has had under consideration SB 153
27 and returns the same with the recommendation that said bill do pass.

1 Also MR. SPEAKER:

2 The Committee on Judiciary respectfully reports that it has had under consideration SB 132
3 and 142 which were deferred to the 41st Legislative Day.

4 Respectfully submitted,
5 Brian G. Gosch, Chair

6 **MESSAGES FROM THE SENATE**

7 MR. SPEAKER:

8 I have the honor to return herewith HB 1013, 1014, 1015, 1016, 1049, 1110, 1112, 1115,
9 1116, 1162, and 1217 which have passed the Senate without change.

10 Also MR. SPEAKER:

11 I have the honor to return herewith HCR 1007 in which the Senate has concurred.

12 Also MR. SPEAKER:

13 I have the honor to return herewith HCR 1008 which has been amended by the Senate and
14 your concurrence in the amendments is respectfully requested.

15 Also MR. SPEAKER:

16 I have the honor to transmit herewith SCR 6 which has been adopted by the Senate and
17 your concurrence is respectfully requested.

18 Respectfully,
19 Jeannette Schipper, Secretary

20 **MOTIONS AND RESOLUTIONS**

21 Rep. Hoffman moved that the House do concur in Senate amendments to HB 1048.

22 The question being on Rep. Hoffman's motion that the House do concur in Senate
23 amendments to HB 1048.

24 And the roll being called:

25 Yeas 69, Nays 0, Excused 1, Absent 0

1 Yeas:

2 Bartling; Bolin; Cammack; Campbell; Carson; Conzet; Craig; Cronin; Dryden; Duvall;
3 Ecklund; Erickson; Feickert; Feinstein; Gibson; Greenfield; Haggar (Don); Haggar (Jenna);
4 Hajek; Hansen; Hawks; Hawley; Heinemann (Leslie); Hickey; Hoffman; Hunhoff (Bernie);
5 Johns; Kaiser; Killer; Kirschman; Kopp; Latterell; Lust; Magstadt; May; Mickelson; Miller;
6 Munsterman; Nelson; Novstrup (David); Olson (Betty); Otten (Herman); Parsley; Peterson;
7 Qualm; Rasmussen; Ring; Romkema; Rounds; Rozum; Russell; Schaefer; Schoenfish;
8 Schrempp; Sly; Soli; Solum; Stalzer; Steele; Stevens; Tulson; Tyler; Verchio; Werner; Westra;
9 Wick; Wink; Wismer; Speaker Gosch

10 Excused:

11 Heinert

12 So the motion having received an affirmative vote of a majority of the members-elect, the
13 Speaker declared the motion carried and the amendments were concurred in.

14 Rep. Hoffman moved that the House do concur in Senate amendments to HB 1058.

15 The question being on Rep. Hoffman's motion that the House do concur in Senate
16 amendments to HB 1058.

17 And the roll being called:

18 Yeas 70, Nays 0, Excused 0, Absent 0

19 Yeas:

20 Bartling; Bolin; Cammack; Campbell; Carson; Conzet; Craig; Cronin; Dryden; Duvall;
21 Ecklund; Erickson; Feickert; Feinstein; Gibson; Greenfield; Haggar (Don); Haggar (Jenna);
22 Hajek; Hansen; Hawks; Hawley; Heinemann (Leslie); Heinert; Hickey; Hoffman; Hunhoff
23 (Bernie); Johns; Kaiser; Killer; Kirschman; Kopp; Latterell; Lust; Magstadt; May; Mickelson;
24 Miller; Munsterman; Nelson; Novstrup (David); Olson (Betty); Otten (Herman); Parsley;
25 Peterson; Qualm; Rasmussen; Ring; Romkema; Rounds; Rozum; Russell; Schaefer; Schoenfish;
26 Schrempp; Sly; Soli; Solum; Stalzer; Steele; Stevens; Tulson; Tyler; Verchio; Werner; Westra;
27 Wick; Wink; Wismer; Speaker Gosch

28 So the motion having received an affirmative vote of a majority of the members-elect, the
29 Speaker declared the motion carried and the amendments were concurred in.

30 SCR 6: A CONCURRENT RESOLUTION, Requesting the Congress of the United States
31 to enact legislation that would reinstate the separation of commercial and investment banking
32 functions that were in effect under the Glass-Steagall Act (Banking Act of 1933).

33 Was read the first time and the Speaker waived the committee referral.

1 Rep. Lust moved that when we adjourn today, we adjourn to convene at 12:30 p.m. on
2 Thursday, February 28, the 32nd legislative day.

3 Which motion prevailed.

4 **CONSIDERATION OF REPORTS OF COMMITTEES**

5 Rep. Lust moved that the reports of the Standing Committees on

6 Agriculture and Natural Resources on SB 59 as found on page 540 of the House Journal;
7 also

8 Transportation on SB 216 as found on page 541 of the House Journal; also

9 Local Government on SB 180 as found on page 542 of the House Journal be adopted.

10 Which motion prevailed.

11 **SECOND READING OF CONSENT CALENDAR ITEMS**

12 SB 74: FOR AN ACT ENTITLED, An Act to require the forfeiture of preference points
13 for certain hunting licenses upon conviction of unlawfully killing, destroying, taking, or
14 possessing trophy animals.

15 Was read the second time.

16 The question being "Shall SB 74 pass?"

17 And the roll being called:

18 Yeas 70, Nays 0, Excused 0, Absent 0

19 Yeas:

20 Bartling; Bolin; Cammack; Campbell; Carson; Conzet; Craig; Cronin; Dryden; Duvall;
21 Ecklund; Erickson; Feickert; Feinstein; Gibson; Greenfield; Haggar (Don); Haggar (Jenna);
22 Hajek; Hansen; Hawks; Hawley; Heinemann (Leslie); Heinert; Hickey; Hoffman; Hunhoff
23 (Bernie); Johns; Kaiser; Killer; Kirschman; Kopp; Latterell; Lust; Magstadt; May; Mickelson;
24 Miller; Munsterman; Nelson; Novstrup (David); Olson (Betty); Otten (Herman); Parsley;
25 Peterson; Qualm; Rasmussen; Ring; Romkema; Rounds; Rozum; Russell; Schaefer; Schoenfish;
26 Schrempp; Sly; Soli; Solum; Stalzer; Steele; Stevens; Tulson; Tyler; Verchio; Werner; Westra;
27 Wick; Wink; Wismer; Speaker Gosch

28 So the bill having received an affirmative vote of a majority of the members-elect, the
29 Speaker declared the bill passed and the title was agreed to.

1 The question being "Shall SB 198 pass as amended?"

2 And the roll being called:

3 Yeas 65, Nays 5, Excused 0, Absent 0

4 Yeas:

5 Bartling; Bolin; Cammack; Campbell; Carson; Conzet; Craig; Cronin; Dryden; Duvall;
6 Ecklund; Erickson; Feickert; Feinstein; Gibson; Greenfield; Haggar (Jenna); Hajek; Hawks;
7 Hawley; Heinemann (Leslie); Heinert; Hickey; Hoffman; Hunhoff (Bernie); Johns; Kaiser;
8 Killer; Kirschman; Kopp; Latterell; Lust; Magstadt; May; Mickelson; Miller; Munsterman;
9 Novstrup (David); Olson (Betty); Otten (Herman); Parsley; Peterson; Qualm; Rasmussen; Ring;
10 Romkema; Rounds; Rozum; Schaefer; Schoenfish; Schrempp; Sly; Soli; Solum; Stalzer; Steele;
11 Stevens; Tulson; Tyler; Verchio; Werner; Westra; Wick; Wismer; Speaker Gosch

12 Nays:

13 Haggar (Don); Hansen; Nelson; Russell; Wink

14 So the bill having received an affirmative vote of a majority of the members-elect, the
15 Speaker declared the bill passed and the title was agreed to.

16 SB 227: FOR AN ACT ENTITLED, An Act to revise provisions relating to the possession
17 of firearms on snowmobiles.

18 Was read the second time.

19 The question being "Shall SB 227 pass?"

20 And the roll being called:

21 Yeas 70, Nays 0, Excused 0, Absent 0

22 Yeas:

23 Bartling; Bolin; Cammack; Campbell; Carson; Conzet; Craig; Cronin; Dryden; Duvall;
24 Ecklund; Erickson; Feickert; Feinstein; Gibson; Greenfield; Haggar (Don); Haggar (Jenna);
25 Hajek; Hansen; Hawks; Hawley; Heinemann (Leslie); Heinert; Hickey; Hoffman; Hunhoff
26 (Bernie); Johns; Kaiser; Killer; Kirschman; Kopp; Latterell; Lust; Magstadt; May; Mickelson;
27 Miller; Munsterman; Nelson; Novstrup (David); Olson (Betty); Otten (Herman); Parsley;
28 Peterson; Qualm; Rasmussen; Ring; Romkema; Rounds; Rozum; Russell; Schaefer; Schoenfish;
29 Schrempp; Sly; Soli; Solum; Stalzer; Steele; Stevens; Tulson; Tyler; Verchio; Werner; Westra;
30 Wick; Wink; Wismer; Speaker Gosch

31 So the bill having received an affirmative vote of a majority of the members-elect, the
32 Speaker declared the bill passed and the title was agreed to.

1 SB 83: FOR AN ACT ENTITLED, An Act to designate Welcome Home Vietnam Veterans
2 Day as a working holiday.

3 Was read the second time.

4 The question being "Shall SB 83 pass as amended?"

5 And the roll being called:

6 Yeas 70, Nays 0, Excused 0, Absent 0

7 Yeas:

8 Bartling; Bolin; Cammack; Campbell; Carson; Conzet; Craig; Cronin; Dryden; Duvall;
9 Ecklund; Erickson; Feickert; Feinstein; Gibson; Greenfield; Haggar (Don); Haggar (Jenna);
10 Hajek; Hansen; Hawks; Hawley; Heinemann (Leslie); Heinert; Hickey; Hoffman; Hunhoff
11 (Bernie); Johns; Kaiser; Killer; Kirschman; Kopp; Latterell; Lust; Magstadt; May; Mickelson;
12 Miller; Munsterman; Nelson; Novstrup (David); Olson (Betty); Otten (Herman); Parsley;
13 Peterson; Qualm; Rasmussen; Ring; Romkema; Rounds; Rozum; Russell; Schaefer; Schoenfish;
14 Schrempp; Sly; Soli; Solum; Stalzer; Steele; Stevens; Tulson; Tyler; Verchio; Werner; Westra;
15 Wick; Wink; Wismer; Speaker Gosch

16 So the bill having received an affirmative vote of a majority of the members-elect, the
17 Speaker declared the bill passed and the title was agreed to.

18 SB 147: FOR AN ACT ENTITLED, An Act to revise certain provisions relating to
19 domestic abuse and protection orders.

20 Was read the second time.

21 147jb

22 Rep. Lust moved that SB 147 be amended as follows:

23 On the House Judiciary Committee engrossed bill delete amendment 147rc thus restoring
24 the bill to the Senate Judiciary engrossed version.

25 Which motion lost.

26 147oa

27 Rep. Kaiser moved that SB 147 be amended as follows:

28 On page 2, line 5, of the House Judiciary Committee engrossed bill, after "Persons" insert
29 "of the opposite sex".

30 Which motion prevailed.

1 The question being "Shall SB 147 pass as amended?"

2 And the roll being called:

3 Yeas 52, Nays 18, Excused 0, Absent 0

4 Yeas:

5 Bartling; Bolin; Cammack; Carson; Conzet; Craig; Cronin; Dryden; Duvall; Erickson; Feickert;
6 Greenfield; Hagggar (Don); Hansen; Heinemann (Leslie); Hickey; Hoffman; Hunhoff (Bernie);
7 Johns; Kaiser; Killer; Kirschman; Lust; Magstadt; May; Mickelson; Miller; Munsterman;
8 Nelson; Novstrup (David); Peterson; Qualm; Rasmussen; Ring; Romkema; Rounds; Rozum;
9 Russell; Schaefer; Schoenfish; Sly; Soli; Solum; Stalzer; Stevens; Tyler; Verchio; Werner;
10 Westra; Wick; Wink; Speaker Gosch

11 Nays:

12 Campbell; Ecklund; Feinstein; Gibson; Hagggar (Jenna); Hajek; Hawks; Hawley; Heinert; Kopp;
13 Latterell; Olson (Betty); Otten (Herman); Parsley; Schrempp; Steele; Tulson; Wismer

14 So the bill having received an affirmative vote of a majority of the members-elect, the
15 Speaker declared the bill passed and the title was agreed to.

16 SB 34: FOR AN ACT ENTITLED, An Act to provide for the sale of the state's interests
17 in certain real estate and improvements located at the Human Services Center campus.

18 Was read the second time.

19 The question being "Shall SB 34 pass as amended?"

20 And the roll being called:

21 Yeas 70, Nays 0, Excused 0, Absent 0

22 Yeas:

23 Bartling; Bolin; Cammack; Campbell; Carson; Conzet; Craig; Cronin; Dryden; Duvall;
24 Ecklund; Erickson; Feickert; Feinstein; Gibson; Greenfield; Hagggar (Don); Hagggar (Jenna);
25 Hajek; Hansen; Hawks; Hawley; Heinemann (Leslie); Heinert; Hickey; Hoffman; Hunhoff
26 (Bernie); Johns; Kaiser; Killer; Kirschman; Kopp; Latterell; Lust; Magstadt; May; Mickelson;
27 Miller; Munsterman; Nelson; Novstrup (David); Olson (Betty); Otten (Herman); Parsley;
28 Peterson; Qualm; Rasmussen; Ring; Romkema; Rounds; Rozum; Russell; Schaefer; Schoenfish;
29 Schrempp; Sly; Soli; Solum; Stalzer; Steele; Stevens; Tulson; Tyler; Verchio; Werner; Westra;
30 Wick; Wink; Wismer; Speaker Gosch

31 So the bill having received an affirmative vote of a two-thirds majority of the members-
32 elect, the Speaker declared the bill passed and the title was agreed to.

1 SB 119: FOR AN ACT ENTITLED, An Act to ensure freedom of media coverage of high
2 school activities.

3 Was read the second time.

4 119sb

5 Rep. Rounds moved that SB 119 be amended as follows:

6 On page 2, line 3, of the Senate Commerce and Energy Committee engrossed bill, after "."
7 insert "Each school district and school board may establish a reasonable fee to be paid by a
8 newspaper, news service, radio station, television station, or television network for the right to
9 live stream or broadcast any performance of any interscholastic high school activity or event.
10 The fee to live stream or broadcast an interscholastic high school activity is not deemed to
11 interfere with news media's right to engage in journalism."

12 A roll call vote was requested and supported.

13 The question being on Rep. Rounds' motion that SB 119 be amended.

14 And the roll being called:

15 Yeas 31, Nays 39, Excused 0, Absent 0

16 Yeas:

17 Cammack; Craig; Cronin; Dryden; Duvall; Ecklund; Greenfield; Haggar (Don); Haggar (Jenna);
18 Johns; Kirschman; Kopp; Lust; May; Mickelson; Munsterman; Olson (Betty); Otten (Herman);
19 Qualm; Romkema; Rounds; Russell; Sly; Soli; Steele; Stevens; Tulson; Westra; Wick; Wink;
20 Speaker Gosch

21 Nays:

22 Bartling; Bolin; Campbell; Carson; Conzet; Erickson; Feickert; Feinstein; Gibson; Hajek;
23 Hansen; Hawks; Hawley; Heinemann (Leslie); Heinert; Hickey; Hoffman; Hunhoff (Bernie);
24 Kaiser; Killer; Latterell; Magstadt; Miller; Nelson; Novstrup (David); Parsley; Peterson;
25 Rasmussen; Ring; Rozum; Schaefer; Schoenfish; Schrempp; Solum; Stalzer; Tyler; Verchio;
26 Werner; Wismer

27 So the motion not having received an affirmative vote of a majority of the members
28 present, the Speaker declared the motion lost.

29 The question being "Shall SB 119 pass as amended?"

30 And the roll being called:

31 Yeas 50, Nays 20, Excused 0, Absent 0

Yeas:

Bartling; Bolin; Cammack; Campbell; Carson; Dryden; Erickson; Feickert; Feinstein; Gibson; Haggar (Jenna); Hajek; Hansen; Hawks; Hawley; Heinemann (Leslie); Hickey; Hunhoff (Bernie); Kaiser; Killer; Kopp; Latterell; Lust; Magstadt; Mickelson; Miller; Nelson; Novstrup (David); Parsley; Peterson; Qualm; Rasmussen; Ring; Romkema; Rozum; Russell; Schaefer; Schoenfish; Schrempp; Sly; Soli; Solum; Stalzer; Steele; Tulson; Tyler; Verchio; Werner; Wismer; Speaker Gosch

Nays:

Conzet; Craig; Cronin; Duvall; Ecklund; Greenfield; Haggar (Don); Heinert; Hoffman; Johns; Kirschman; May; Munsterman; Olson (Betty); Otten (Herman); Rounds; Stevens; Westra; Wick; Wink

So the bill having received an affirmative vote of a majority of the members-elect, the Speaker declared the bill passed and the title was agreed to.

SB 84: FOR AN ACT ENTITLED, An Act to create the South Dakota Athletic Commission and to provide for the supervision of boxing, kickboxing, mixed martial arts competitions and sparring exhibitions in the state.

Was read the second time.

Pursuant to Joint Rule 1-5, the Speaker announced that Rep. Schrempp could not continue to speak to SB 84 without the consent of a majority of the body.

The Speaker put said motion to a vote and the motion prevailed on a standing vote.

84fc

Rep. Hickey moved that SB 84 be amended as follows:

On the House Commerce and Energy Committee engrossed bill, delete everything after the enacting clause and insert:

" Section 1. There is hereby created, within the jurisdiction of the Department of Labor and Regulation, the South Dakota Athletic Commission consisting of five members appointed by the Governor. Not all members may be of the same political party. Two members shall have experience with, or have been active in boxing, wrestling, or martial arts. One member shall represent the public at large. Each member shall serve terms of three years, but no member may serve more than three consecutive terms.

Section 2. No boxing, sparring, or professional wrestling matches or exhibitions may be conducted, held, or given within the state except in accordance with the provisions of this Act. Such boxing, sparring, or wrestling matches or exhibitions may be held in any building for which the commission in its discretion may issue a license.

1 Section 3. A combative sport is any professional match or exhibition other than boxing,
2 sparring, wrestling, or martial arts wherein the contestants use a mixture of techniques as is the
3 practice in hybrid fights called Mixed Martial Arts or Ultimate, Bellator, and Invicta Fighting
4 Championships also known as cage fighting. For the purposes of this section, martial arts
5 includes any professional match or exhibition sanctioned by any of the following organizations:
6 U.S. Judo Association, U.S. Judo, Inc., U.S. Judo Federation, U.S. Tae Kwon Do Union, North
7 American Sport Karate Association, U.S.A. Karate Foundation, U.S. Karate, Inc., World Karate
8 Association, Professional Karate Association, Karate International, International Kenpo
9 Association, or World Wide Kenpo Association. The commission is authorized to promulgate
10 regulations, pursuant to chapter 1-26, which would establish a process to allow for the inclusion
11 or removal of martial arts organizations from the above list. Such process shall include
12 consideration of the following factors:

- 13 (1) Is the organization's primary purpose to provide instruction in self defense
14 techniques;
- 15 (2) Does the organization require the use of head, hand, feet, and groin protection during
16 any competition or bout; and
- 17 (3) Does the organization have an established set of rules that require the immediate
18 termination of any competition or bout when any participant has received severe
19 punishment or is in danger of suffering serious physical injury.

20 Section 4. No combative sport may be conducted, held, or given within the state of South
21 Dakota, and no licenses may be approved by the commission for such matches or exhibitions.

22 Section 5. Any person who knowingly advances or profits from a combative sport activity
23 is guilty of a Class 1 misdemeanor. Such person is guilty of a Class 6 felony if that person has
24 been convicted in the previous five years of violating this section.

25 Section 6. A person advances a combative sport activity when, acting other than as a
26 spectator, the person engages in conduct which materially aids any combative sport. Such
27 conduct includes conduct directed toward the creation, establishment, or performance of a
28 combative sport, toward the acquisition or maintenance of premises, paraphernalia, equipment,
29 or apparatus therefor, toward the solicitation or inducement of persons to attend or participate
30 therein, toward the actual conduct of the performance thereof, toward the arrangement of any
31 of its financial or promotional phases, or toward any other phase of a combative sport. One
32 advances a combative sport activity when, having substantial proprietary or other authoritative
33 control over premises being used with the person's knowledge for purposes of a combative sport
34 activity, the person permits such to occur or continue or makes no effort to prevent its
35 occurrence or continuation.

36 Section 7. A person profits from a combative sport activity when that person accepts or
37 receives money or other property with intent to participate in the proceeds of a combative sport
38 activity, or pursuant to an agreement or understanding with any person whereby that person
39 participates or is to participate in the proceeds of a combative sport activity.

40 Section 8. Any person who knowingly advances or profits from a combative sport activity
41 is also subject to a civil penalty not to exceed for the first violation ten thousand dollars or twice
42 the amount of gain derived therefrom whichever is greater, or for a subsequent violation twenty

1 thousand dollars or twice the amount of gain derived therefrom whichever is greater. The
2 attorney general is hereby empowered to commence judicial proceedings to recover such
3 penalties and to obtain injunctive relief to enforce the provisions of this section.

4 Section 9. The commission is hereby vested with the sole direction, control, and jurisdiction
5 over all contests and exhibitions held in the state of South Dakota.

6 Section 10. The commission shall promulgate rules pursuant to chapter 1-26 to:

7 (1) Govern the conduct of exhibitions through the use of the most recent uniform rules
8 published by the association of boxing commissions;

9 (2) Establish license fees for all contestants, promoters, managers, judges, timekeepers,
10 corner persons, knockdown counters, matchmakers, and referees or other
11 participants; and

12 (3) Establish a fee based on the percentage of gross revenues from any exhibition held
13 in the state to cover the expenses of the South Dakota Athletic Commission. The fee
14 established under this subdivision may not exceed five percent of the gross revenues
15 of the exhibition from any and all sources including cable television and
16 pay-per-view telecasts of the event, exclusive of any federal tax. However, in no
17 event may the fee be less than one thousand dollars.

18 Section 11. All fees collected pursuant to this Act shall be placed in the athletic commission
19 fund that is hereby established in the state treasury. All money deposited in the fund is
20 continuously appropriated to pay for the administration of this Act and for the compensation and
21 expenses of members of the South Dakota Athletic Commission.

22 Section 12. Exhibitions held in any city in this state shall be held in conformity to the
23 ordinances of that city, in addition to the requirements of this Act. No exhibition may be held
24 in a city where such exhibitions are prohibited by ordinance.

25 Section 13. Nothing in this Act prohibits or regulates:

26 (1) Hand-to-hand combat training as engaged in during military training; or

27 (2) Any class, training, or instruction in martial arts as a sport, discipline, or means of
28 self-defense."

29 Rep. Lust moved the previous question.

30 Which motion prevailed.

31 A roll call vote was requested and supported.

1 The question being on Rep. Hickey's motion that SB 84 be amended.

2 And the roll being called:

3 Yeas 27, Nays 43, Excused 0, Absent 0

4 Yeas:

5 Bolin; Carson; Conzet; Craig; Duvall; Ecklund; Haggar (Jenna); Hansen; Heinemann (Leslie);
6 Hickey; Kopp; Latterell; Magstadt; Mickelson; Miller; Munsterman; Qualm; Rasmussen;
7 Romkema; Rozum; Schaefer; Stalzer; Steele; Stevens; Westra; Wick; Wink

8 Nays:

9 Bartling; Cammack; Campbell; Cronin; Dryden; Erickson; Feickert; Feinstein; Gibson;
10 Greenfield; Haggar (Don); Hajek; Hawks; Hawley; Heinert; Hoffman; Hunhoff (Bernie); Johns;
11 Kaiser; Killer; Kirschman; Lust; May; Nelson; Novstrup (David); Olson (Betty); Otten
12 (Herman); Parsley; Peterson; Ring; Rounds; Russell; Schoenfish; Schrempp; Sly; Soli; Solum;
13 Tulson; Tyler; Verchio; Werner; Wismer; Speaker Gosch

14 So the motion not having received an affirmative vote of a majority of the members
15 present, the Speaker declared the motion lost.

16 84ob

17 Rep. Greenfield moved that SB 84 be amended as follows:

18 On page 1, line 5, of the House Commerce and Energy Committee engrossed bill, after
19 "created" insert ", within the jurisdiction of the Department of Labor and Regulation,".

20 Which motion prevailed.

21 84oc

22 Rep. Conzet moved that SB 84 be further amended as follows:

23 On page 3, after line 12 of the House Commerce and Energy Committee engrossed bill,
24 insert:

25 " Section 7. Each commission member shall have directors and officers liability insurance.
26 The Legislature may appropriate funding to provide for directors and officers liability insurance.
27 If the Legislature fails to appropriate funding for directors and officers liability insurance, each
28 commission member shall personally obtain directors and officers liability insurance coverage.".

29 A roll call vote was requested and supported.

1 The question being on Rep. Conzet's motion that SB 84 be further amended.

2 And the roll being called:

3 Yeas 23, Nays 47, Excused 0, Absent 0

4 Yeas:

5 Bolin; Cammack; Carson; Conzet; Craig; Cronin; Duvall; Ecklund; Greenfield; Haggar (Don);
6 Haggar (Jenna); Hansen; Hickey; Kopp; Latterell; Lust; Mickelson; Munsterman; Sly; Stevens;
7 Westra; Wick; Wink

8 Nays:

9 Bartling; Campbell; Dryden; Erickson; Feickert; Feinstein; Gibson; Hajek; Hawks; Hawley;
10 Heinemann (Leslie); Heinert; Hoffman; Hunhoff (Bernie); Johns; Kaiser; Killer; Kirschman;
11 Magstadt; May; Miller; Nelson; Novstrup (David); Olson (Betty); Otten (Herman); Parsley;
12 Peterson; Qualm; Rasmussen; Ring; Romkema; Rounds; Rozum; Russell; Schaefer; Schoenfish;
13 Schrempp; Soli; Solum; Stalzer; Steele; Tulson; Tyler; Verchio; Werner; Wismer; Speaker
14 Gosch

15 So the motion not having received an affirmative vote of a majority of the members
16 present, the Speaker declared the motion lost.

17 The question being "Shall SB 84 pass as amended?"

18 And the roll being called:

19 Yeas 50, Nays 20, Excused 0, Absent 0

20 Yeas:

21 Bartling; Cammack; Conzet; Cronin; Dryden; Erickson; Feickert; Feinstein; Gibson; Greenfield;
22 Hajek; Hansen; Hawks; Hawley; Heinert; Hoffman; Hunhoff (Bernie); Johns; Killer;
23 Kirschman; Kopp; Lust; Magstadt; May; Mickelson; Miller; Munsterman; Nelson; Novstrup
24 (David); Olson (Betty); Otten (Herman); Parsley; Peterson; Qualm; Rasmussen; Ring; Rounds;
25 Russell; Schaefer; Schoenfish; Schrempp; Sly; Soli; Stevens; Tulson; Tyler; Verchio; Werner;
26 Wismer; Speaker Gosch

27 Nays:

28 Bolin; Campbell; Carson; Craig; Duvall; Ecklund; Haggar (Don); Haggar (Jenna); Heinemann
29 (Leslie); Hickey; Kaiser; Latterell; Romkema; Rozum; Solum; Stalzer; Steele; Westra; Wick;
30 Wink

31 So the bill having received an affirmative vote of a two-thirds majority of the members-
32 elect, the Speaker declared the bill passed and the title was agreed to.

SB 44: FOR AN ACT ENTITLED, An Act to allow disqualification of commercial driver licenses for violations of federal, state, or local texting bans while driving a commercial vehicle to comply with federal regulations and requirements.

Was read the second time.

The question being "Shall SB 44 pass as amended?"

And the roll being called:

Yeas 50, Nays 20, Excused 0, Absent 0

Yeas:

Bartling; Bolin; Cammack; Carson; Conzet; Dryden; Duvall; Ecklund; Erickson; Feickert; Feinstein; Gibson; Hajek; Hansen; Hawks; Hawley; Heinemann (Leslie); Heinert; Hoffman; Hunhoff (Bernie); Johns; Killer; Kirschman; Lust; Magstadt; Mickelson; Munsterman; Novstrup (David); Otten (Herman); Parsley; Peterson; Rasmussen; Ring; Romkema; Rozum; Schaefer; Schoenfish; Schrempp; Sly; Soli; Solum; Stevens; Tulson; Tyler; Verchio; Werner; Westra; Wick; Wink; Wismer

Nays:

Campbell; Craig; Cronin; Greenfield; Haggar (Don); Haggar (Jenna); Hickey; Kaiser; Kopp; Latterell; May; Miller; Nelson; Olson (Betty); Qualm; Rounds; Russell; Stalzer; Steele; Speaker Gosch

So the bill having received an affirmative vote of a majority of the members-elect, the Speaker declared the bill passed and the title was agreed to.

SB 174: FOR AN ACT ENTITLED, An Act to revise certain provisions relating to out-of-country foreign judgments.

Was read the second time.

The question being "Shall SB 174 pass as amended?"

And the roll being called:

Yeas 64, Nays 6, Excused 0, Absent 0

Yeas:

Bartling; Bolin; Cammack; Campbell; Carson; Conzet; Craig; Cronin; Dryden; Duvall; Ecklund; Erickson; Feickert; Gibson; Greenfield; Haggar (Don); Haggar (Jenna); Hajek; Hansen; Hawks; Hawley; Heinemann (Leslie); Hickey; Hoffman; Hunhoff (Bernie); Johns; Kirschman; Kopp; Latterell; Lust; Magstadt; May; Mickelson; Miller; Munsterman; Nelson; Novstrup (David); Olson (Betty); Otten (Herman); Parsley; Peterson; Qualm; Rasmussen; Romkema; Rounds; Rozum; Schaefer; Schoenfish; Schrempp; Sly; Soli; Solum; Stalzer; Steele; Stevens; Tulson; Tyler; Verchio; Werner; Westra; Wick; Wink; Wismer; Speaker Gosch

1 Nays:
2 Feinstein; Heinert; Kaiser; Killer; Ring; Russell

3 So the bill having received an affirmative vote of a majority of the members-elect, the
4 Speaker declared the bill passed and the title was agreed to.

5 SB 6: FOR AN ACT ENTITLED, An Act to determine whether factors affecting
6 productivity should be applied if the actual use of agricultural land does not correspond to the
7 soil classification standards.

8 Was read the second time.

9 The question being "Shall SB 6 pass?"

10 And the roll being called:

11 Yeas 59, Nays 8, Excused 3, Absent 0

12 Yeas:
13 Bartling; Bolin; Cammack; Campbell; Conzet; Craig; Cronin; Duvall; Ecklund; Erickson;
14 Feickert; Feinstein; Gibson; Greenfield; Haggar (Don); Hajek; Hansen; Hawks; Hawley;
15 Heinemann (Leslie); Heinert; Hoffman; Hunhoff (Bernie); Johns; Killer; Kirschman; Kopp;
16 Magstadt; May; Mickelson; Miller; Munsterman; Nelson; Olson (Betty); Otten (Herman);
17 Parsley; Peterson; Qualm; Rasmussen; Ring; Rounds; Rozum; Russell; Schaefer; Schoenfish;
18 Schrempp; Sly; Soli; Solum; Stalzer; Stevens; Tulson; Tyler; Verchio; Werner; Westra; Wink;
19 Wismer; Speaker Gosch

20 Nays:
21 Haggar (Jenna); Hickey; Kaiser; Latterell; Lust; Novstrup (David); Steele; Wick

22 Excused:
23 Carson; Dryden; Romkema

24 So the bill having received an affirmative vote of a majority of the members-elect, the
25 Speaker declared the bill passed and the title was agreed to.

26 SB 115: FOR AN ACT ENTITLED, An Act to increase the commercial fertilizer
27 inspection fee for purposes of fertilizer-related research and to create the Nutrient Research
28 Education Council to promote such research.

29 Was read the second time.

30 Rep. Lust moved the previous question.

31 Which motion prevailed.

1 The question being "Shall SB 115 pass?"

2 And the roll being called:

3 Yeas 48, Nays 15, Excused 7, Absent 0

4 Yeas:

5 Bolin; Cammack; Campbell; Conzet; Craig; Duvall; Ecklund; Feickert; Feinstein; Gibson;
6 Greenfield; Haggar (Don); Hawks; Heinemann (Leslie); Heinert; Hoffman; Hunhoff (Bernie);
7 Johns; Killer; Kirschman; Magstadt; May; Miller; Munsterman; Olson (Betty); Otten (Herman);
8 Parsley; Peterson; Qualm; Rasmussen; Ring; Rounds; Rozum; Schaefer; Schoenfish; Schrempp;
9 Sly; Soli; Solum; Stalzer; Steele; Stevens; Tulson; Tyler; Verchio; Werner; Westra; Wink

10 Nays:

11 Cronin; Erickson; Haggar (Jenna); Hajek; Hansen; Hickey; Kaiser; Kopp; Latterell; Lust;
12 Nelson; Novstrup (David); Russell; Wick; Speaker Gosch

13 Excused:

14 Bartling; Carson; Dryden; Hawley; Mickelson; Romkema; Wismer

15 So the bill having received an affirmative vote of a two-thirds majority of the members-
16 elect, the Speaker declared the bill passed and the title was agreed to.

17 SB 106: FOR AN ACT ENTITLED, An Act to prohibit certain minors from using wireless
18 communication devices while operating motor vehicles upon the public highways.

19 Was read the second time.

20 106oa

21 Rep. Russell moved that SB 106 be amended as follows:

22 On page 3, after line 19 of the printed bill, insert:

23 " Section 4. That chapter 32-12 be amended by adding thereto a NEW SECTION to read as
24 follows:

25 Any enforcement of the prohibition of the use of a wireless communication device pursuant
26 to the provisions of this Act by a law enforcement officer shall be accomplished as a secondary
27 action."

28 Which motion prevailed.

29 The question being "Shall SB 106 pass as amended?"

30 And the roll being called:

1 Yeas 33, Nays 30, Excused 7, Absent 0

2 Yeas:

3 Bolin; Cammack; Conzet; Duvall; Ecklund; Feickert; Feinstein; Gibson; Hajek; Hawks;
4 Heinemann (Leslie); Heinert; Hickey; Hoffman; Hunhoff (Bernie); Johns; Killer; Kirschman;
5 Lust; Magstadt; Munsterman; Otten (Herman); Parsley; Rasmussen; Ring; Rozum; Schaefer;
6 Schrempp; Sly; Soli; Steele; Tyler; Werner

7 Nays:

8 Campbell; Craig; Cronin; Erickson; Greenfield; Haggar (Don); Haggar (Jenna); Hansen; Kaiser;
9 Kopp; Latterell; May; Miller; Nelson; Novstrup (David); Olson (Betty); Peterson; Qualm;
10 Rounds; Russell; Schoenfish; Solum; Stalzer; Stevens; Tulson; Verchio; Westra; Wick; Wink;
11 Speaker Gosch

12 Excused:

13 Bartling; Carson; Dryden; Hawley; Mickelson; Romkema; Wismer

14 So the bill not having received an affirmative vote of a majority of the members-elect, the
15 Speaker declared the bill lost.

16 Rep. Gibson announced her intention to reconsider the vote by which SB 106 lost.

17 SB 130: FOR AN ACT ENTITLED, An Act to revise certain provisions concerning
18 absentee voting.

19 Was read the second time.

20 The question being "Shall SB 130 pass as amended?"

21 And the roll being called:

22 Yeas 49, Nays 17, Excused 4, Absent 0

23 Yeas:

24 Bolin; Cammack; Campbell; Conzet; Craig; Cronin; Duvall; Ecklund; Erickson; Greenfield;
25 Haggar (Don); Haggar (Jenna); Hajek; Hansen; Heinemann (Leslie); Hickey; Hoffman; Johns;
26 Kaiser; Kopp; Latterell; Lust; Magstadt; May; Miller; Munsterman; Nelson; Novstrup (David);
27 Olson (Betty); Otten (Herman); Qualm; Rasmussen; Rounds; Rozum; Russell; Schaefer;
28 Schoenfish; Sly; Solum; Stalzer; Steele; Stevens; Tulson; Verchio; Werner; Westra; Wick;
29 Wink; Speaker Gosch

30 Nays:

31 Bartling; Feickert; Feinstein; Gibson; Hawks; Hawley; Heinert; Hunhoff (Bernie); Killer;
32 Kirschman; Parsley; Peterson; Ring; Schrempp; Soli; Tyler; Wismer

33 Excused:

34 Carson; Dryden; Mickelson; Romkema

Rep. Lust moved that the balance of the calendar including SB 55, 199, 223, 10, 11, 158, 17, 166, 31, and 194 be deferred to Thursday, February 28, the 32nd legislative day.

There being no objection, the House reverted to Order of Business No. 5.

MR. SPEAKER:

Also MR. SPEAKER:

Respectfully submitted,
Brian G. Gosch, Chair

MR. SPEAKER:

Respectfully,
Jeannette Schipper, Secretary

ANNOUNCEMENTS

The Speaker appointed Reps. Verchio, Duvall, and Ring as a committee of three on the part of the House to meet with a like committee on the part of the Senate to adjust the differences between the two houses on SB 151.

COMMEMORATIONS

HC 1025 Introduced by: Representatives Olson (Betty), Bartling, Bolin, Cammack, Campbell, Craig, Cronin, Duvall, Ecklund, Feickert, Greenfield, Hansen, Heinert, Hoffman, Hunhoff (Bernie), Johns, Kaiser, Kopp, Lust, May, Miller, Nelson, Peterson, Qualm, Russell, Schaefer, Schrempp, Sly, Verchio, and Wink and Senators Maher, Begalka, Bradford, Brown, Ewing, Frerichs, Jensen, Johnston, Jones, Kirkeby, Krebs, Lucas, Monroe, Otten (Ernie), Rampelberg, Rhoden, Sutton, Vehle, and Welke

A LEGISLATIVE COMMEMORATION, Recognizing Saturday, July 27, 2013, as the National Day of the American Cowboy.

WHEREAS, nine years ago, the good folks who publish the *American Cowboy Magazine* decided to promote the National Day of the American Cowboy as a catalyst to encourage local western cultural events and activities in celebration of our proud western heritage; and

WHEREAS, this initiative has been gathering momentum and is already an established success; and

WHEREAS, this summer a number of barbeques, ranch rodeos, cowboy poetry festivals, bull ridings, and other western heritage events have already been scheduled from venues as diverse as Okeechobee, Florida, and Norco, California; and

WHEREAS, the High Plains has not as yet achieved the degree of participation that Texas and the Low Plains states have demonstrated:

NOW, THEREFORE, BE IT COMMEMORATED, by the Eighty-Eighth Legislature of the State of South Dakota, formally recognizes Saturday, July 27, 2013, as the National Day of the American Cowboy and encourages our local communities to schedule activities celebrating our cowboy virtues and lifestyle.

HC 1026 Introduced by: Representative Nelson and Senator Van Gerpen

A LEGISLATIVE COMMEMORATION, Posthumously honoring Chief Warrant Officer Two Hans Gukeisen.

WHEREAS, Hans Gukeisen volunteered to serve in the United States Army, was a member of the Lead community, and selflessly paid the terrible costs for our freedoms while serving in Iraq on May 9, 2003; and

1 WHEREAS, Chief Warrant Officer Two Hans Gukeisen's service and ultimate sacrifice
2 were in keeping with the highest traditions of South Dakota's veterans and the United States
3 Armed Forces; and

4 WHEREAS, we feel how weak and fruitless must be any words of ours which shall attempt
5 to beguile the family and friends from the grief of a loss so overwhelming. But we cannot refrain
6 from even now tendering the consolation that may be found in this heartfelt appreciation and
7 respect of the people of South Dakota that Hans died protecting; and

8 WHEREAS, we pray that our Heavenly Father may assuage the anguish of his family's and
9 friends' bereavement, and leave them only the cherished memory of the loved and lost, and the
10 solemn pride that is theirs to have laid so costly a sacrifice upon the altar of freedom:

11 NOW, THEREFORE, BE IT COMMEMORATED, by the Eighty-Eighth Legislature of the
12 State of South Dakota, that Chief Warrant Officer Two Hans Gukeisen is posthumously
13 honored, commended, and remembered for his service and noble sacrifices for the people of
14 South Dakota. In token of South Dakota's common perpetual grief at his loss, this
15 commemoration is enrolled and appropriately immortalized for posterity. *Requiescat in pace.*

16 Rep. Steele moved that the House do now adjourn, which motion prevailed and at
17 6:35 p.m. the House adjourned.

18 Arlene Kvislen, Chief Clerk